

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-6, 9-16, 19-26, and 29-33 are currently pending. Claims 1, 9, 11, 19, 21, and 29 have been amended; Claims 7, 8, 17, 18, 27, and 28 have been canceled without prejudice; and Claims 31-33 have been added by the present amendment. The changes and additions to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 1, 2, 11, 12, 21, and 22 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-4 and 19-26 of U.S. Patent No. 5,819,110 to Motoyama (hereinafter “the ‘110 patent”); Claims 1-6, 11-16, and 21-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by the ‘110 patent; Claims 1, 11, and 21 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,378,069 to Sandler et al. (hereinafter “the ‘069 patent”); and Claims 7-10, 17-20, and 27-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘069 patent in view of U.S. Patent No. 6,560,643 to Shepherd et al. (hereinafter “the 643 patent”).

Applicants wish to thank the Examiner for the interview granted Applicants’ representative on October 30, 2003, at which time proposed amendments to Claims 1 and 9 were discussed. However, no agreement on the patentability of the claims was reached, pending the Examiner’s further consideration of the claims upon formal submission of a response to the outstanding Office Action.

Amended Claim 1 is directed to a method, comprising: (1) monitoring a first device by a second device; (2) determining, by the second device, whether a current device driver in the first device is a desired device driver; (3) first transferring the desired device driver from

the second device to the first device when it is determined that the current device driver in the first device is different from the desired device driver, wherein the current device driver and the desired device driver are configured to control operations of the first device; (4) *determining whether a user of a third device desires the desired device driver to be transferred to the third device when the user of the third device accesses the first device; and* (5) *second transferring the desired device driver from the first device to the third device when it is determined that the user of the third device desires the desired device driver to be transferred to the third device.* Claim 1 has been amended to incorporate the limitations recited in original Claim 8. Accordingly, Claim 8 and intervening Claim 7 have been canceled without prejudice. Moreover, the changes to Claim 1 are supported by the originally filed specification and do not add new matter.

Applicants respectfully submit that the rejection of Claim 1 and (dependent Claim 2) under the judicially created doctrine of obviousness-type double patenting is rendered moot by the present amendment to claim 1. In particular, Applicants note that Claim 1 has been amended to incorporate the limitations recited in dependent Claim 8, and that Claim 8 was not rejected over the '110 patent.

Further, Claims 11 and 21 recite limitations analogous to the limitations recited in amended Claim 1. Moreover, Claims 11 and 21 have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for the reasons stated above for the patentability of Claim 1, Applicants respectfully submit that the rejection of Claim 11 (and dependent Claim 12) and Claim 21 (and dependent Claim 22) under the judicially created doctrine of obviousness-type double patenting is rendered moot by the present amendment to Claims 11 and 21.

Applicants respectfully submit that the rejection of Claim 1 (and dependent Claims 2-6) as anticipated by the '110 patent is rendered moot by the present amendment to Claim 1.

In particular, Applicants note that Claim 8 was not rejected as anticipated by the '110 patent, and Claim 1 has been amended to incorporate the limitations recited in original Claim 8.

Claims 11 and 21 recite limitations analogous to the limitations recited in amended Claim 1. Moreover, Claims 11 and 21 have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for the reasons stated above for the patentability of Claim 1, Applicants respectfully submit that the rejection of Claim 11 (and dependent Claims 12-16) and Claim 21 (and dependent Claims 22-26) as anticipated by the '110 patent are rendered moot by the present amendment to Claims 11 and 21, respectively.

Applicants respectfully submit that the rejection of independent Claims 1, 11, and 21 as anticipated by the '069 patent are rendered moot by the present amendment to those claims. Claims 1, 11, and 21 have been amended to incorporate the limitations recited in dependent Claims 8, 18, and 28, respectively, which were not rejected as anticipated by the '069 patent.

Applicants respectfully submit that the rejection of dependent Claims 7, 8, 17, 18, 27 and 28 under 35 U.S.C. § 103(a) are rendered moot by the present cancellation of those claims. However, since the limitations recited in original Claim 8 have been incorporated into amended Claim 1, Applicants will address the patentability of Claim 1 with respect to the '069 and '643 patents.

Regarding the rejection of original Claim 8 under 35 U.S.C. § 103(a), the Office Action asserts that the '069 patent discloses everything in Claim 8 with the exception of a desired device driver being configured to control operations of a second device, and relies on the '643 patent to remedy that deficiency.

The '069 patent is directed to an apparatus and method for providing software updates to devices arranged in a communication network. However, Applicants submit that the '069 patent fails to disclose determining whether a user of a third device desires a desired device

driver to be transferred to the third device when the user of the third device accesses the first device, wherein the desired device driver is transferred from a second device to a first device when it is determined that the current device driver in the first device is different from the desired device driver, as recited in amended Claim 1.

Turning now to the secondary reference, the '643 patent is directed to a method of distributing software to a plurality of self-service terminals. As shown in Figure 5, the '643 patent discloses that a management station 12 can cause terminals 16, which have received a software package, to transmit the package to additional terminals, until all terminals 16 have received the package. However, Applicants respectfully submit that the '643 patent fails to disclose *determining whether a third device desires the desired device driver to be transferred to the third device when the user of the third device accesses the first device*, as recited in amended Claim 1. In particular, in the Office Action's interpretation of the '069 and '643 patents, the first and third devices recited in amended Claim 1 correspond to two terminals disclosed by the '643 patent. However, Applicants submit that the '643 patent fails to disclose the one terminal *accesses* another terminal in the manner recited in amended Claim 1.

Accordingly, no matter how the teachings of the '069 and '643 patents are combined, the combination does not teach or suggest determining whether a user of a third device desires a desired device driver to be transferred to the third device when the user of the third device accesses the first device, wherein the desired device driver is transferred from the second device to the first device when it is determined that the current device driver in the first device is different from the desired device driver, as recited in amended Claim 1.

Accordingly, Applicants respectfully submit that amended Claims 1, 11, and 21, patentably define over any proper combination of the '069 and '643 patents.

Amended Claim 9 is directed to a method, comprising: (1) determining whether a user of a first device desires a desired device driver of a second device to be transferred to the first device when the user of the first device accesses the second device; and (2) transferring the desired device driver from the second device to the first device when it is determined that the user of the first device desires the desired device driver of the second device to be transferred to the first device, wherein the device desired device driver is configured to control operations of the second device *by the first device*. The changes to Claim 1 are supported by the originally filed specification and do not add new matter.<sup>1</sup>

Applicants respectfully submit that the rejection of Claim 9 (and dependent Claim 10) is rendered moot by the present amendment to Claim 9.

Regarding the rejection of Claim 9, Applicants note that the software package disclosed by the '643 patent which is transmitted from one terminal to a second terminal to efficiently propagate the software update to all the terminals, is not a device driver configured to control operations of a second device by a first device, as recited in amended Claim 9. Thus, Applicants respectfully submit that no matter how the teachings of the '069 and '643 patents are combined, the combination does not teach or suggest transferring a desired device driver from a second device to a first device when it is determined that the user of the first device desires the desired device driver of the second device to be transferred to the first device, wherein the desired device driver is configured to control operations of the second device by the first device, as recited in amended Claim 9. Accordingly, Applicants respectfully submit that Claim 9 (and dependent Claim 10) patentably define over any combination of the '069 and '643 patents.

Independent Claims 19 and 29 recite limitations analogous to the limitations recited in amended claim. Moreover, Claims 19 and 29 have been amended in a manner analogous to

---

<sup>1</sup> See, e.g., Figure 14.

the amendment to Claim 9. Accordingly, Applicants respectfully submit that the rejection of Claim 19 (and dependent Claim 10) and Claim 29 (and dependent Claim 30) are rendered moot by the present amendment to Claims 19 and 29, respectively.

The present amendment also sets forth new dependent Claims 31-33 for examination on the merits. Claims 31-33, which depend from Claims 1, 11, and 21, respectively, each recite that the desired device driver is configured to control operations of the first device by the third device. New Claims 31-33 are supported by the originally filed specification and do not add new matter.<sup>2</sup> Moreover, for the reasons stated above for the patentability of Claims 1, 11, and 21, Applicants submit that new Claims 31-33 patentably distinguish over the applied references.

Thus, it is respectfully submitted that independent Claims 1, 9, 11, 19, 21, and 29 (and all associated dependent claims) patentably define over any proper combination of the '110, '069 and '643 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/03)  
JKK/KMB

I:\ATTY\KMB\52440114-AM.DOC

*Kurt M. Berger*  
\_\_\_\_\_  
James J. Kulbaski  
Attorney of Record  
Registration No. 34,648  
Kurt M. Berger, Ph.D.  
Registration No. 51,461

<sup>2</sup> See, e.g., Figure 14.